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असाधारण

EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या की जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 12th May, 1980/Vaisakha 22, 1902 (Saka)

THE ESSENTIAL SERVICES MAINTENANCE (MAHARASHTRA) ORDINANCE, 1980

No. 6 OF 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for the maintenance of certain essential services and the normal life of the community in Maharashtra.

WHEREAS by a Proclamation issued on the 17th day of February, 1980, by the President under article 356 of the Constitution, the powers of the Legislature of the State of Maharashtra have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Essential Services Maintenance (Maharashtra) Ordinance, 1980.

Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force at once.

Defini-
tions.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) “essential service” means—

(i) any transport service for the carriage of passengers or goods, by land or water, with respect to which the State Legislature of Maharashtra has power to make laws;

(ii) any service connected with the production, generation, storage, transmission, supply or distribution, as the case may be, of gas, water or electricity;

(iii) any service connected with the maintenance of public health and sanitation, including hospitals and dispensaries;

(iv) any public services and posts in connection with the affairs of the State, and also persons appointed to the secretarial staff of the Houses of the State Legislature and the officers and servants of the High Court for the State;

(v) any other service or employment or class thereof, connected with matters with respect to which the State Legislature of Maharashtra has power to make laws and which the State Government of Maharashtra being of opinion that strikes in such service, employment, or class thereof, would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification in the *official Gazette*, declare to be an essential service for the purposes of this Ordinance;

(b) “strike” means the cassation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or who have been so employed to continue to work or to accept employment, and includes—

(i) failure to attend at, or absence from, the place of work on any working day or during any working hours, without obtaining the necessary permission therefor of the authority competent to grant such permission;

(ii) refusal to work overtime where such work is necessary for the maintenance of any essential service;

(iii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (v) of clause (a) of sub-section (1) shall be laid before each House of the Legislature of the State of Maharashtra immediately after it is made if it is in session and on the first day of the commencement of the next session of the House

if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of the Legislature, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by both Houses of the Legislature.

Explanation.—Where the Houses of the Legislature are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the later of those dates.

(3) Where any notification under this section ceases to operate, the cesser shall be without prejudice to anything done or omitted to be done before such cesser.

3. (1) If the State Government of Maharashtra is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special Order, prohibit strikes in any essential service specified in the Order.

Power to prohibit strikes in certain employments.

(2) An Order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the Order.

(3) An Order made under sub-section (1) shall be in force for six months only, but the State Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-section (1),—

(a) no person employed in any essential service to which the Order relate shall go or remain on strike;

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

(5) Any Order made under this section may at any time be rescinded by the State Government by a like Order, but such rescission shall not affect the previous operation of anything duly done or suffered thereunder, and shall not affect any obligation or liability accrued or incurred, or any penalty or punishment incurred in respect of any offence committed against this Ordinance before such rescission.

(6) No Order under sub-section (1) or sub-section (3) or sub section (5) shall be made in respect of—

(a) persons appointed to the secretarial staff of the Houses of the State Legislature, except at the request of the Chairman of the Legislative Council and the Speaker of the Legislative Assembly;

(b) officers and servants of the High Court, except at the request of the Chief Justice of the High Court..

4. Any person who commences a strike which is illegal under this Ordinance, or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both. Penalty for illegal strikes.

Penalty
for
instiga-
tion, etc.

5. Any person who instigates, or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and any vehicle or other conveyance which is used by such person while committing such offence, shall, if having regard to all the circumstances the Court considers it just and proper so to order, be forfeited to the State Government.

Penalty
for
giving
finan-
cial aid
to ille-
gal
strikes.

6. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Sections
4 to 6 in
addi-
tion to
disci-
plinary
action.

7. Any action taken under section 4, section 5 or section 6 shall not affect, and shall be in addition to, any action of a disciplinary nature or any consequence which may ensue, and to which any person may be liable by the terms and conditions of his service or employment.

Power
to arrest
without
warrant
and to
seize vehi-
cles.

8. Notwithstanding anything contained in the Code of Criminal Pro-
cedure, 1973, any police officer may arrest without warrant any person
who is reasonably suspected of having committed any offence under this
Ordinance, and may seize any vehicle or other conveyance, which is used
by any person who is reasonably suspected of having committed an
offence under section 5.

2 of 1974

Provi-
sions of
section
102 of
Act
2 of 1974
to apply
to seiz-
ure.

9. The provisions of section 102 of the Code of Criminal Procedure, 1973, relating to seizure shall, so far as may be, apply in relation to every seizure made under section 8.

Offen-
ces
under
the Ord-
nance to
be non-
bail-
able.

10. Notwithstanding anything contained in the Code of Criminal
Procedure, 1973, all offences under this Ordinance shall be non-bailable.

2 of 1974

Ordi-
nance to
over-
ride
other
laws.

11. The provisions of this Ordinance and of any Order issued there-
under shall have effect notwithstanding anything inconsistent therewith
contained in the Bombay Industrial Relations Act, 1946, the Industrial
Disputes Act, 1947, or in any other law for the time being in force.

Bom. XI
of 1947.
14 of 1947

N. SANJIVA REDDY,
President.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.